

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 12810, of Naomi Newman, pursuant to Paragraph 8207.11 of the Zoning Regulations, for variances from the lot occupancy requirements (Sub-section 3303.1 and Paragraph 7107.23), the rear yard requirements (Sub-section 3304.1 and Paragraph 7107.22) and the open court width requirements (Sub-section 3306.1 and Paragraph 7107.22) to permit a two story rear addition to a row dwelling which is a non-conforming structure in the R-4 District at the premises 31 Seaton Place, N.W., (Square 3110, Lot 102).

HEARING DATE: November 22, 1978

DECISION DATE: December 6, 1978

FINDINGS OF FACT:

1. The subject property is located in the R-4 District on the north side of Seaton Place, N.W., approximately 250 feet west of its intersection with North Capital Street and is known as 31 Seaton Place, N.W.
2. The site is developed with a three story red brick row dwelling. There is a two story frame porch located to the rear of the dwelling. The rear yard is enclosed with a chain link fence which abuts an alley to the north.
3. The subject three story row dwelling was built in 1907 and is a non-conforming structure. The lot area and lot width dimensions are less than the minimum sizes now required by the Zoning Regulations for the R-4 District.
4. To the north of the property is a twenty foot alley and the back yards and garages of row dwellings that front on T Street in the R-4 District. To the east and west abutting and nearby the subject property are row dwellings. To the south across Seaton Place are additional row dwellings.
5. By BZA Order No. 12405, dated June 7, 1977, a similar application was denied and on July 25, a motion for reconsideration was denied.
6. The applicant proposes to build a two story brick addition to the rear of her three story brick structure, which is a non-conforming structure.
7. The proposed addition will house a bedroom on the 2nd floor, and a combination dining room and den area on the first floor.

8. The proposed addition will extend approximately four feet beyond the existing frame porch into the existing twenty foot deep rear yard. This will leave a remaining rear yard depth of sixteen feet. A variance of four feet or twenty percent is thus needed.

9. The proposed addition will increase the existing lot occupancy by 83.30 square feet. The R-4 District requires that no structure including its accessory building shall occupy its lot in excess of sixty percent. The applicant is requesting a variance of 79.16 square feet or 8.99 percent.

10. An open court width of six feet is required, 2.66 feet will be provided, therefore a variance of 3.34 feet or 55.66 percent is requested.

11. The abutting property owner to the west submitted a letter into the record supporting the application, as did many other owners of property on Seaton Place surrounding the site.

12. The Municipal Planning Office, by report dated November 17, 1978, recommended that the application be approved. MPO reported that the proposed rear addition will not substantially block the air, light and ventilation in the direction of either of the neighboring row dwellings, but will instead upgrade the appearance of the subject premises by removing the existing porch that appears to be in poor structural condition and unsightly. The Board so finds. The MPO further reported that the proposed addition will not abut the neighboring row dwellings, but would be approximately 5.6 feet between the addition and the neighboring dwelling to the east. The Board so finds. The MPO further reported that it would not be practical to simply enclose the existing porch because it is in poor structural condition and is not wide enough to accommodate the needed living space. The Board so finds. The MPO noted that several dwellings located across the alley to the north had enclosed rear porches that appeared to extend into the rear yards.

13. Advisory Neighborhood Commission 5C, by letter dated November 18, 1978, recommended approval of the application as an example for others to follow in upgrading the appearance of the neighborhood and because it would not adversely impact or the light, air or other property rights of the neighbors.

14. The abutting property owner to the east was in opposition to the application in the grounds that the addition would obstruct the light and air in the direction of his property, and that circumstances had not changed since the Board denied a similar application in 1977. As to the issues raised in opposition, the Board notes the report of the Municipal Planning Office, the recommendation of the ANC and the testimony of the applicant as being creditable evidence that there will be no adverse effect on light, air and ventilation for abutting properties. The Board further finds that no such evidence was presented in the preceding application.

CONCLUSIONS OF LAW AND OPINION:

The Board concludes that the requested variances are area variances, the granting of which requires the showing of a practical difficulty inherent in the property itself. The Board concludes that the existing sub-standard size of the lot and the nature of the existing improvements on the lot are inherent in the property. The Board further concludes that the strict application of the Regulations would create a practical difficulty on the owner in the sense that it would not allow a reasonable sized addition to the present building.

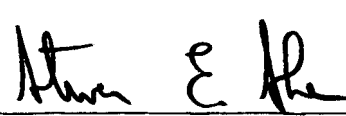
As to the arguments raised by the abutting property owner, the Board concludes that each case must be judged on the specific set of facts presented. The Board notes that in its decision on the previous case, it concluded "that the applicant has failed to make the required showing." In this case, the Board concludes that the applicant has presented evidence to meet the criteria set forth in Paragraph 8207.11, and that the applicant has met the burden of proof required.

The Board notes that the ANC has recommended approval of the application, and concludes that it has accorded to the ANC the "great weight" to which it is entitled. The Board further concludes that the application can be granted without adversely impacting neighboring properties and is consistent with the intent and purpose of the Zoning Regulations and Map. It is therefore ORDERED that the application is GRANTED.

VOTE: 4-0 (Walter B. Lewis, Charles R. Norris, William F. McIntosh and Chloethiel Woodard Smith to grant, Leonard L. McCants not voting, having heard the case).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY: _____


STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: _____

16 FEB 1979

THAT THE ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS ONLY UNLESS APPLICATION FOR A BUILDING AND/OR OCCUPANCY PERMIT IS FILED WITH THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT WITHIN A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER.